



U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92011
(760) 431-9440
FAX (760) 431-9618



California Department of Fish & Game
South Coast Region
4949 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
FAX (858) 467-4299

In Reply Refer To:
FWS/CDFG-OR-5036.1

Deirdre West
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, California 90054-0153

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Robert B. Diemer Treatment Plant North Access Road, City of Yorba Linda, Orange County, California

Dear Ms. West:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (Department), collectively the Wildlife Agencies, have reviewed the subject Notice of Preparation (NOP) received by our office on August 21, 2006. The proposed access road would be located off of Carbon Canyon Road, partially within the property boundaries of Robert B. Diemer Treatment Plant (Diemer Plant) and Chino Hills State Park (CHSP). The proposed 1.3-mile long roadway would provide plant personnel, service trucks, and emergency vehicles secondary emergency access to the plant. A portion of the project would be conducted within the boundaries of the Shell/Metropolitan Water District Habitat Conservation Plan (Shell/MWD HCP), which contains guidelines for infrastructure projects within its boundaries.

We offer the following comments and recommendations regarding project-related biological impacts based on our review of the NOP and our knowledge of declining habitat types and species within Orange County. The Service provides these comments as a signatory to the Shell/MWD HCP and in keeping with our agency's mission to work "with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people." Specifically, we administer the Endangered Species Act of 1973, as amended (Act). The Department is a Trustee Agency and a Responsible Agency pursuant of the California Environmental Quality Act, Sections 15386 and 15381, respectively. The Department is responsible for the conservation, protection, and management of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA) and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) program.

To facilitate the evaluation of the proposed project from the standpoint of fish and wildlife protection, we request that the Draft EIR contain the following specific information.

1. A description of the environment in the vicinity of the project from both a local and regional perspective, including an aerial photograph of the area with the project site outlined.
2. A complete discussion of the purpose and need for the project and each of its alternatives.
3. A complete description of the proposed project, including the limits of the project area.
4. An evaluation of the consistency of the proposed project with the Shell/MWD HCP.
5. Quantitative and qualitative assessments of the biological resources and habitat types that will be affected by the proposed project and its alternatives. These assessments should include direct, indirect, and cumulative project impacts from all facets of the project (*e.g.*, construction, implementation, operation, and maintenance) to fish and wildlife and their associated habitats. The analysis of cumulative impacts should address proposed developments in the surrounding area.

These assessments should include a list of: Federal candidate, proposed, or listed species; State-listed species; and locally sensitive species that are on or near the project site. They should also include a detailed discussion of these species, including information pertaining to their local status and distribution. The analysis of impacts to biological resources should include detailed maps and tables summarizing specific acreages and locations of all habitat types, as well as the number and distribution of all Federal candidate, proposed, or listed species, State-listed species, and locally sensitive species, within the project's or its alternatives' area of potential effect.

Two federally listed species, the threatened coastal California gnatcatcher (*Polioptila californica californica*) and the endangered least Bell's vireo (*Vireo belli pusillus*), have previously been recorded in the project area (Carlsbad Service Office internal GIS database). Biological surveys should be conducted for these species in any appropriate habitat on the project site.

6. A detailed analysis of impacts of the proposed project on the movement of wildlife and measures proposed to avoid, minimize, and mitigate impacts to wildlife movement.

California Walnut Woodlands (CWW) would be impacted by the proposed alignment for the access road. The Department classifies CWW as a Rare Natural Community with a ranking of S2.1 meaning that it is threatened and it exists in fewer than 6 known locations and/or occupies fewer than 2000 acres of habitat (Attachment). The Wildlife Agencies recommend that the Draft EIR include alternative alignments which would feasibly attain most of the basic project objectives and reduce impacts to SCWW (CEQA Guidelines, Section 15126). The Wildlife Agencies are available for consultation to determine such alternative alignments.

A detailed discussion of measures to be taken to avoid, minimize, and mitigate impacts to biological resources. For example, the Draft EIR should include appropriate mitigation for impacts to SCWW. Any walnut tree removed shall be replaced in kind (using rooted plants in liners or direct planting of seeds) at the following ratios (unless otherwise approved by the Wildlife Agencies): plants less than 5 inches diameter at breast height (DBH) shall be replaced at 3:1; plants from 5 to 12 inches DBH shall be replaced at 5:1; trees from 12 to 24 inches DBH shall be replaced at 10:1; trees from 24 to 36 inches DBH shall be replaced at 15:1; all walnut trees greater than 36 inches DBH shall be replanted at a ratio of 20:1. The replacement ratio for damaged trees shall be 2:1 for plants with DBH fewer than 12 inches. These ratios account not only for the less than 100 percent survival rate for replacement trees, but also mitigates for the habitat that is lost until the replacement trees reach functional maturity. The replacement ratio for damaged trees shall be 5:1 for plants with DBH greater than 12 inches. Spacing of replacement trees should be 20 feet minimum and should be monitored, nurtured, and protected within the dripline for a minimum five years. The Department recommends the use of rooted plants in liners, acorns, or one gallon containers for restoration to increase the likelihood of survival of plantings. In addition, no equipment shall be operated within the dripline of walnut trees, and protective fencing shall be placed around the dripline of walnut trees to prevent compaction of the root zone.

7. An assessment of potential impacts to wetlands and jurisdictional waters of the United States and the State of California. Wetland delineations should be pursuant to the U.S. Fish and Wildlife Service definition (Cowardin 1979) adopted by the Department. Please note that wetland and riparian habitats subject to the Department's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers. The Draft EIR should disclose all impacts to jurisdictional waters and wetlands, and proposed measures to be taken to avoid and minimize impacts, and mitigate unavoidable impacts.
8. The Department may require a Lake or Streambed Alteration Agreement (LSAA) pursuant to Section 1600 *et seq.* of the Fish and Game Code, with the applicant prior to the applicant's commencement of any activity that will substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank (which may include associated riparian resources) of a river, stream or lake, or use material from a streambed. The Department's issuance of LSAA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a responsible agency. The Department as a responsible agency under CEQA, may consider the local jurisdiction's (lead agency's) CEQA documentation for the project. To minimize additional requirements by the Department pursuant to Section 1600 *et seq.* and/or under CEQA, the final document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the agreement. A LSAA notification form may be obtained by writing to the Department of Fish and Game, 4949 Viewridge Avenue, San Diego, California 92123-

1662, or by calling (858) 636-3160, or by accessing the Department's web site at <http://www.dfg.ca.gov/1600>.

We appreciate the opportunity to comment on the subject NOP. If you have any questions regarding these comments, please contact Christine Medak (Service) at (760) 431-9440 ext. 298 and Erinn Wilson (Department) at (562) 342-7155.

Sincerely,

Karen A. Goebel
Assistant Field Supervisor
U.S. Fish and Wildlife Service

Michael J. Mulligan
Deputy Regional Manager
California Department of Fish and Game

cc: Crystal Marquez, ACOE

Literature Cited

Cowardin, Lewis M., V. Carter, G. C. Golet, and E. T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. Fish and Wildlife Service, U.S. Department of the Interior. U. S. Government Printing Office, Washington, D.C.